

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

DONIEL CARTER,

Plaintiff,

v.

Case No. 18-CV-0727

STATE OF WISCONSIN,
DEPARTMENT OF CORRECTIONS, et
al.,

Defendants.

**DEFENDANT STATE OF WISCONSIN, DEPARTMENT OF
CORRECTIONS' MOTION TO DISMISS**

Defendant State of Wisconsin, Department of Corrections (DOC), hereby moves, pursuant to Fed. R. Civ. P. 12(b)(2) &(6), to dismiss the claims against it in the Complaint. The motion is supported by the pleadings on file and the accompanying brief. The grounds for the motion, as further set forth in DOC's brief are: 1) The Complaint fails to state a claim upon which relief can be granted because DOC is not a "person" subject to liability under 42 USC § 1983 and DOC is immune from suit under 42 U.S.C. § 1983 under the Eleventh Amendment; and 2) The Court lacks personal jurisdiction over DOC with respect to the state law claims under the Eleventh Amendment and Wis. Const. art. IV, § 27.

WHEREFORE, the State of Wisconsin, Department of Corrections respectfully requests that the Court dismiss the claims against it on the merits and with prejudice.

Dated this 10th day of July, 2018.

Respectfully submitted,

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